

S U P R E M E C O U R T O F I N D I A

RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (Civil) No(s).12335/2004

(From the judgement and order dated 13/11/2003 in ITA No. 29/2003 of the HIGH COURT OF BOMBAY AT NAGPUR)

COMMNR. OF INCOME TAX, NAGPUR

Petitioner(s)

VERSUS

NAGPUR ZILLA S. SAHAKARI SOOT GIRNI LTD.

Respondent(s)

(With appln(s) for c/delay in filing SLP and prayer for interim relief and office report)

WITH SLP(C) NO. 12345 of 2004

(With appln. for c/delay in filing SLP and prayer for interim relief and office report)

Date: 07/07/2006 These Petitions were called on for hearing today.

CORAM :

HON'BLE THE CHIEF JUSTICE

HON'BLE MR. JUSTICE C.K. THAKKER

For Petitioner(s) Mr. Mohan Parasaran, A.S.G.

Mr. Harish Chandra, Sr.Adv.

Mr. B.V. Balaram Das,Adv.

For Respondent(s)

Mr. K. Sampath, Adv.

Mrs. Lakshmi Iyengar, Adv.

Ms. N.Annapoorani,Adv.

UPON hearing counsel the Court made the following

O R D E R

Delay condoned.

Leave granted.

The appeals are allowed to the extent indicated in the signed order.

No costs.

(N. Annapurna)
Court Master

(V.P. Tyagi)
Asstt.Registrar

(Signed order is placed on the file)

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.2842 OF 2006
(Arising out of S.L.P.(C) No.12335/2004)

Commnr. of Income tax, Nagpur

...Appellant(s)

Versus

Nagpur Zilla S. Sahakari Soot Girni Ltd.

...Respondent(s)

W I T H

CIVIL APPEAL NO.2843 OF 2006
(Arising out of S.L.P.(C) No.12345/2004)

O R D E R

Delay condoned.

Leave granted.

The appeals are directed against the judgment of the High Court whereby the application of the Revenue under Section 256(2) of the Income Tax Act has been disallowed. It is not in dispute that in view of the decision of this Court in

Civil

Appeal No.1615 of 2004 (Commnr. of Income Tax, Nagpur Vs. Nagpur Zilla S.S.Soot Girni Ltd.), decided on 12th March, 2004, the following question deserves

to be considered by the High Court:

"Whether the Division Bench of the High Court has not erred in law in upholding the findings of the ITAT concluding that the expenditure incurred by the Respondent on account of gift articles given to the shareholders of the company at the time of Annual General Meeting would be liable to be deducted under Section 37(1) of the Act as having been incurred exclusively and wholly for the business of the Respondent on the basis of the ratio of CIT vs. Bhandara Zilla Sahakari Kharedi Vikri Sangh Ltd., 212 ITR (Bom) wherein the issue of gifts was not before the High Court?"

...2/-

-2-

Accordingly, the impugned order is set aside and the aforesaid question is referred to the High Court for its consideration.

The appeals are allowed to the above extent.

No costs.

.....CJI.

(Y.K. SABHARWAL)

.....J.

(C.K. THAKKER)

New Delhi,

July 07, 2006.